IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5526 of 2006

DATED: 11.9.2006

Between:

P.N.Swamy **petitioner**

And

The Hon'ble Industrial Tribunal cum Labour Court,
Warangal, rep by its Presiding Officer and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 5526 OF 2006

ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Labour Court, Warangal in I.D. No. 192 of 1994 and to quash the same.

The petitioner herein is working as Driver in the respondent corporation. On 16.7.1982 while he was performing the duties a check was conducted by the checking officials near Penchikalpet and based on the report of the checking officials, a charge sheet dated 12.8.1982 was issued alleging that the petitioner has not co-operated with the checking officials. Thereafter, an enquiry was ordered. The enquiry officer conducted an ex-parte enquiry and submitted his report dated 13.10.1982. Based on the report of the enquiry officer, a show cause notice was issued to the petitioner and after considering the explanation offered by the petitioner a punishment of reduction of pay by two incremental stages for a period of three years with cumulative effect was imposed by proceedings dated 29.1.1983. Against the said order, the petitioner preferred an appeal and the same was rejected. Thereafter the petitioner raised an Industrial Dispute in I.D. No. 192 of 1994 on the file of the Industrial Tribunal cum Labour Court, Warangal. The Labour Court on consideration of the matter passed an award dated 9.3.1998 confirming the punishment imposed on the

petitioner. Hence, the present writ petition.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

Until and unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty. In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, the charges alleged against the petitioner are grave in nature, which read as under;

i) For having failed to co-operate with the checking officials, when check took place, which constitute misconduct under Reg.28 (xxi) of APSRTC Employees (Conduct) Reg. 1963.

ii) For having failed to attest the passengers' statement and MTD-43/R, when the conductor had failed to attest the same, which constitutes misconduct under Reg. 28 (viii) of APSRTC Employees (Conduct) Reg. 1963.

iii) For having failed to attest the passengers' statement, even though they were confronted, and also on the MTD-43/R which constitutes misconduct under Reg.28 (viii) of APSRTC Employees (Conduct) Reg.1963"

As against the above charges, an enquiry was conducted and based on the enquiry report, a show cause notice was issued and ultimately by order dated 29.1.1983 punishment of reduction of pay by two incremental stages for a period of three years with cumulative period was imposed on the petitioner. For obvious reasons, the petitioner kept quiet for about one decade and thereafter raised an Industrial Dispute only in the year 1994. Before the Tribunal the petitioner relied upon a circular No.PD-97 dated 20.9.1988 and contended that reduction of increments normally should not be for more than two years or more than two incremental stages in a single case. The Labour Court having regard to the fact that the punishment was imposed on 29.1.1983 declined to take into consideration the subsequent circular issued on 20.9.1988. Further the Tribunal having regard to the fact that the petitioner has not offered his explanation to the charge sheet, kept quiet for more than ten years and particularly in view of gravity of the charges has rightly confirmed the punishment imposed by the Disciplinary Authority. Except reiterating the

contentions which were raised and adjudicated before the Labour Court, the petitioner has not made out a case warranting interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

Date: 11.9.2006

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[1] 2005 (3) SCC 254